

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHRISTOPHER R. HESS,	:	CIVIL ACTION NO. 1:03-CV-1668
	:	
Petitioner	:	(Judge Conner)
	:	
v.	:	
	:	
MAJOR FRANK TENNIS, et al.,	:	
	:	
Respondents	:	

ORDER

AND NOW, this 16th day of October, 2006, upon consideration of petitioner's motion (Doc. 92) for leave to file a second amendment to the amended petition pursuant to 28 U.S.C. § 2254,¹ filed on September 27, 2006, and it appearing that a brief in support of the motion has not been filed as of the date of this order, see L.R. 7.5 ("Within ten (10) days after the filing of any motion filed prior to trial, the party filing the same shall file a brief . . ."), it is hereby ORDERED that:

1. Petitioner shall file, on or before November 3, 2006, a brief in support of the motion (Doc. 92) for leave to file a second amendment to the amended petition. See L.R. 7.5.
 - a. The brief in support shall address the effect of the proposed amendment on the report and recommendation of the magistrate judge (Doc. 87).

¹ The court notes that an August 2, 2006 report of the magistrate judge recommends that the amended petition be denied. (See Doc. 87.) This is the second report of the magistrate judge recommending that the amended petition be denied. (See Doc. 40.) The first report was rejected by the order of court dated July 21, 2005 (Doc. 67) to allow the magistrate judge to consider the recently amended petition.

- b. Failure to comply with this paragraph shall result in the motion being deemed withdrawn. See L.R. 7.5.
- 2. Respondents shall be permitted to file, on or before November 17, 2006, a brief in opposition of the motion (Doc. 92) for leave to file a second amendment to the amended petition. See L.R. 7.6.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge